

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Ginger Moore,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-0865
Parcel No. 090/06971-000-000

On February 23, 2012, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Ginger Moore requested a hearing and submitted evidence in support of her petition. She was self-represented. Assistant County Attorney Ralph E. Marasco, Jr. represented the Board of Review at hearing. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Ginger Moore (Moore), owner of property located at 5802 N. Waterbury Road, Des Moines, Iowa, appeals from the Polk County Board of Review decision reassessing her property. According to the property record card, the subject property consists of a two-story dwelling having 1260 square feet of living area on the main level and 957 square feet of living area on the upper level for a total living area of 2217 square feet. It was built in 1928. The dwelling has a 1220 square-foot, unfinished basement with a one-stall garage, a 168 square-foot patio, and a 514 square-foot wood deck. It has a construction grade in the high quality range (2-05) and is in very good condition. The improvements are situated on 0.413 acres.

The real estate was classified as residential on the initial assessment of January 1, 2011, and valued at \$302,900, representing \$54,100 in land value and \$248,800 in dwelling value.

Moore protested to the Board of Review on the grounds that the property assessment is not equitable compared to like properties in the taxing jurisdiction under Iowa Code section 441.37(1)(a) and the property is assessed for more than authorized by law under section 441.37(1)(b). The Board of Review denied the protest.

Moore then filed her appeal with this Board based on the same grounds. She requested a reduction in value to \$250,000, allocated \$52,000 to land value and \$198,000 to dwelling value.

At the Board of Review, Moore listed four equity comparison properties and also provided a "residential inventory comparison" spreadsheet that included four additional properties (Exhibits 2 & 3). The properties were two-story dwellings built between 1923 and 1932, with roughly 2000 to 2200 total living area, and quality grades ranging from 3-10 to 2-10. The properties appear reasonably similar to the subject property. The assessed values of these properties ranged from \$165,500 to \$267,700, or \$80.65 per square foot to \$124.86 per square foot. The subject property's assessment is \$302,900 or \$136.63 per square foot which far exceeds the upper end of the range.

The Board of Review Appraiser Analysis was critical of Moore's comparables because they were inferior in quality and some were not in the subject property's designated neighborhood.¹ We find the requirement of having all comparables within the same neighborhood overly restrictive. Additionally, properties that are reasonably similar in quality grade may serve as suitable comparables if adequate adjustments are made.

Moore submitted five comparables to support her claim of inequitable assessment (Exhibit 3). We note that three of these, comparables one, two and five, were also included in the six equity comparables she submitted to the Board of Review. They are all two-story dwellings in the same

¹ The assessor's records designate the neighborhood where Moore's property is located as DM50/Z.

general area with central air conditioning. Comparables one and three are brick construction similar to the subject property. The subject and comparable two lack basement finish, while the other comparables have basement finish ranging from 120 square feet to 440 square feet. The subject property and comparable five have basement garages and the other comparables have detached garages ranging from 336 square feet to 576 square feet. Sites range from 0.13 acres to 0.37 acres, with a median of 0.28 acres. We note the subject property site of 0.41 acres is larger than the upper end of this range. Additionally, the subject and comparable five have high quality grades (2-05 & 2-10), whereas the other comparables have good quality grades (3-10 to 3+10).

The following chart summarizes the comparisons in Exhibit 3.

Address	Year Built	Condition	Grade	TSFLA	AV	AVPSF	BOR Adjust Dwlg Value	BOR Adjust Dwlg VPSF
Subject Property	1928	VG	2-05	2217	\$ 302,900	\$ 136.63	\$248,788	\$112.22
662 57th	1932	B NML	3+10	2231	\$ 219,100	\$ 98.21	\$160,697	\$72.03
303 51st	1923	A NML	3-10	2160	\$ 205,000	\$ 94.91	\$144,826	\$67.05
529 48th	1923	A NML	3-10	2212	\$ 192,400	\$ 86.98	\$157,553	\$71.23
4521 Chamberlain	1924	A NML	3-05	1894	\$ 205,300	\$ 108.39	\$167,880	\$88.63
5611 Waterbury	1924	VG	2-10	2038	\$ 237,100	\$ 116.34	\$190,123	\$93.29

Moore testified that after the Board of Review protest, the assessor's office informed her that she was required to have a minimum of three sales, and they must be only in her immediate neighborhood. She was misinformed on this issue. Our Supreme Court has specifically held that comparable sales do not need to be "within the assessor's geographical area." *Carlton Co. v. Board of Review*, 572 N.W.2d 146, 150 (Iowa 1997); *See also Sofier v. Floyd County Bd. of Review*, 759 N.W.2d 775, 792 (Iowa 2009) (holding witness inappropriately limited search for comparable sales to town where property was located rather than canvassing a broader geographic area); *Compiano v. Board of Review of Polk County*, 771 N.W.2d 392, 398 (Iowa 2009).

In response to the Board of Review appraiser's criticism, Moore offered five sales from her neighborhood she considered similar to her property (Exhibit 4). The properties are all vintage, two-story or two-and-a-half-story dwellings with central air conditioning located in the subject property area. All of the comparables, except comparable two, have brick construction similar to the Moore dwelling. Only comparable two has basement finish. We note the quality construction grades range from good quality to high quality (3+00 to 2+00). The subject property's high quality grade (2-05) is within this range and toward the upper end of the range. The following chart summarizes Moore's comparable sales evidence in Exhibit 4.

Address	Year Built	TSFLA	Grade	Sale Date	Sales Price	\$SPSF	BOR Adjusted Sale Price	BOR Adjusted \$SPSF	AV	AVPSF
Subject	1928	2217	2-05						\$302,900	\$136.63
722 5th	1940	2721	2+00	11/18/2010	\$333,000	\$122.38	\$292,676	\$107.56	\$321,400	\$118.12
5817 N Waterbury	1940	2571	2-10	12/17/2009	\$319,500	\$124.27	\$275,686	\$107.23	\$212,800	\$ 82.76
6003 Waterbury	1923	2250	2-10	6/26/2009	\$299,500	\$133.11	\$313,196	\$139.20	\$268,300	\$119.24
5727 Walnut Hill	1929	1935	3+00	11/11/2010	\$235,000	\$121.45	\$298,827	\$154.43	\$212,800	\$109.97
4328 Woodland	1918	2063	3+10	9/30/2010	\$235,000	\$113.91	\$291,252	\$ 141.18	\$228,100	\$110.57

Moore testified she averaged the sale prices to arrive at her estimate of her property's fair market value of \$250,000. It appears the adjustments were made by the Board of Review appraiser based on cost and this hybrid method is questionable. With this caveat, we note the assessed value per square foot ranged from \$82.76 per square foot to \$119.24 per square foot, placing the assessed value of the subject property per square foot, above the upper end of this range. The indicated value of the cost adjusted sales comparison analysis developed by the assessor's program was \$295,230.

In support of her claim that the property is over-assessed, Moore also submitted a desktop appraisal completed by John M. Schmidt of Accurate Real Estate Appraisal Report, Des Moines (Exhibit 5). Schmidt identified three sales of homes he deemed similar to the subject property within roughly one mile of the subject property. The unadjusted sales prices ranged from \$235,000 to

\$239,000 with a median of \$237,500, or \$85.06 to \$121.45 per square foot with a median of \$97.39 per square foot. The comparable Schmidt considered most similar to the subject had an unadjusted sales price of \$97.39 per square foot as compared to the subject property assessment of \$136.63 per square foot. Schmidt concluded a value of \$238,000 for the subject property as of May 17, 2011. The appraiser did not make any adjustments nor explain why they were unnecessary, which is preferred and ordinarily makes us hesitant to adopt them. However, in this case the comparables do appear reasonably similar to the subject property in design, age, location, size, and amenities. This greatly minimizes the likelihood the comparables need adjustments when valued on a per square foot basis. Further, the most similar property identified by Schmidt sold for the median value of \$97.39 per square foot.

Viewing the record as a whole, we find that Moore failed to prove by a preponderance of the evidence the property assessment is inequitable compared to like properties in the taxing jurisdiction. However, we find the preponderance evidence supports Moore's claim her property was over-assessed as of January 1, 2011. The subject property's assessment per square foot exceeds the median values for comparable sales of similar property in the record.

Exhibit #4	\$122.38	Median Sales Price
Exhibit #5	\$ 97.39	Median Sales Price

Albeit its limitations, we believe the Schmidt appraisal, which values the subject property at \$238,000, or \$107.35 per square foot, is the most reliable value indicator in the record. Further, his value opinion is supported by the other evidence of per-square-foot median sales prices for comparable properties as of January 1, 2011.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is the ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market

value. § 441.21(1). Moore did not prove by a preponderance of the evidence that her property is inequitably assessed under either the *Eagle Food* or *Maxwell* tests.

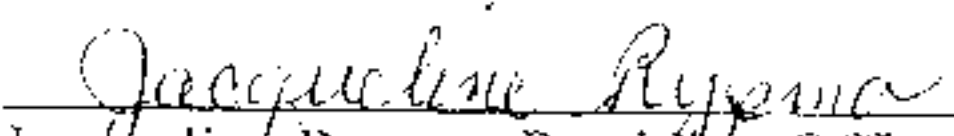
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Moore proved by a preponderance of the evidence that her property is over-assessed and the fair market value of the property as of January 1, 2011.

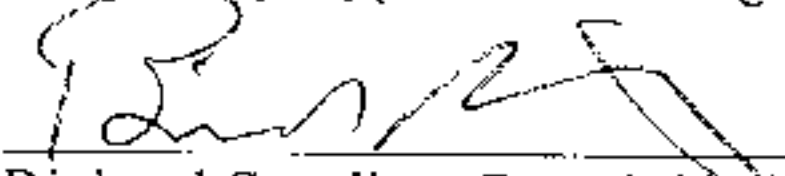
Therefore, we modify the property assessment as determined by the Board of Review to \$238,000. representing \$54,100 in land value and \$183,900 in dwelling value as of January 1, 2011.

THE APPEAL BOARD ORDERS that the January 1, 2011. assessment as determined by the Polk County Board of Review is modified as set forth above.

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Polk County Auditor and all tax records, assessment books and other records pertaining to the assessment referenced herein on the subject parcel shall be corrected accordingly.

Dated this 24 day of April 2012.


Jacqueline Rypma, Presiding Officer


Richard Stradley, Board Chair


Karen Oberman, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>4-24</u> , 201 <u>2</u> .	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u><i>[Signature]</i></u>